

### **EXAMINER'S AMENDMENT**

The restriction requirement of January 5, 2010, has been withdrawn and all claims pending have been rejoined and examined on the merits. Also, in view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Furthermore, the arguments of October 28, 2009, were persuasive; however, the requested amendment to the specification submitted on October 28, 2009, is directed to the publication and not the instantly filed specification of this case 10/525,892. Therefore, the requested changes will be included in this Examiner's Amendment.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mary Merchant per Rebecca McFadyen on May 6, 2010.

The application has been amended as follows:

In the specification

at page 1, line 3, inserted --This application is a National Stage under 35 U.S.C. 371 of International Application No. PCT/US2003/027134, filed August 27, 2003, published in English as International Publication Number WO 2004/020980 A2 on March 11, 2004, which claims priority to, and the benefit under U.S.C. 119(e) of, U.S. Provisional Patent Application No. 60/406,175, filed August 27, 2002, which is hereby incorporated by reference in its entirety. -- ;

Further, at page 6, line 30, deleted "bilirubin" and inserted --biliverdin-- , , at page 7, line 9, deleted "increased" and inserted --decreased-- .

In the claims

18. (Currently Amended by Examiner's Amendment) The method of Claim 1, wherein the sample from an avian or reptilian subject is derived from blood, serum, urine, sputum, or fine needle aspirations, or other biological fluids.

19. (Currently Amended by Examiner's Amendment) The method of Claim 2, wherein the sample from an avian or reptilian subject is derived from blood, serum, urine, sputum, or fine needle aspirations, or other biological fluids.

24. (Currently Amended by Examiner's Amendment) A method of monitoring the efficacy of drug therapy in an avian or reptilian subject, comprising:

detecting hepatic function in an avian or reptilian subject undergoing drug therapy comprising

(a) contacting a sample from an avian or reptilian subject with biliverdin reductase;

(b) measuring a change in an absorbance value in at least one wavelength between about 325 to about 750 nm,

(c) calculating the amount of substantially all of the biliverdin in a sample by comparing the changes in absorbance with absorbance values for known biliverdin amounts to obtain a first biliverdin amount;

(d) repeating steps (a) - (c) at least one time to obtain at least a second biliverdin amount;

assessing hepatic function by comparing the first biliverdin amount with the at least a second biliverdin amount; and

if required, optionally adjusting at least one aspect of the drug therapy selected from the group consisting of changing the drug, the dose, and the frequency of the drug therapy.

25. (Canceled by Examiner's Amendment).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBBIE K. WARE whose telephone number is (571)272-0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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